UNITED NATIONS

E/NL.1991/61
22 January 1992

ENGLISH ONLY *

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

MALAYSIA

Communicated by the Government of Malaysia

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

Act A766

DANGEROUS DRUGS (SPECIAL PREVENTIVE MEASURES) (AMENDMENT) ACT 1990

An Act to amend the Dangerous Drugs (Special Preventive Measures) Act 1985 and to provide for matters connected therewith.

Date of Royal Assent	2nd April 1990
Date of Publication in *Gazette*	31st March 1990

WHEREAS action which is prejudicial to public order in Malaysia has been taken and further similar action is being threatened by a substantial body of persons both inside and outside Malaysia;

AND WHEREAS Parliament considers it necessary to stop such action;

*Note by the Secretariat: The present document is a direct reproduction of the text communicated to the Secretariat.

Note by the Secretariat:
1/E/NL.1991/20

V.92-50460

NOW, THEREFORE, pursuant to Article 149 of the Constitution, BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1990.

Amendment of section 6. *Act 316.*

2. Section 6 of the Dangerous Drugs (Special Preventive Measures) Act 1985, which is referred to in this Act as the "principal Act", is amended, in subsection (1), by deleting the words "from the date of such order".

Amendment of section 6A.

3. (1) Section 6A of the principal Act is amended—

(a) by renumbering section 6A as subsection (1) of section 6A; and

(b) by inserting, after subsection (1), the following subsection:

"(2) No fresh detention order or fresh restriction order referred to in subsection (2) of section 11B shall be invalid or inoperative by reason that no fresh report has been submitted under subsection (3) of section 3 and subsection (4) of section 5 or that that detention order or restriction order was made on the same ground as the previous detention order or restriction order.".

(2) Subsection (2) of section 6A of the principal Act, which has been inserted by subsection (1), shall be deemed to have been an integral part of that section as from the date of commencement of that section.

Amendment of section 11B.

4. Section 11B of the principal Act is amended, in subsection (2), by substituting for the words "order or to give a fresh direction as is mentioned under subsection (1)" the words "detention order under subsection (1) of section 6 or a fresh restriction order under subsection (3) of section 6 or a fresh direction under subsection (1) of section 11A".

Validation of detention orders and detentions, and indemnity.

5. (1) Where a detention order was made under subsection (1) of section 6 of the principal Act against any person during the period between the commencement of the principal Act and the commencement of this Act (hereinafter referred to as the "transitional period"), the detention order and the detention effected in pursuance thereof during the transitional period, and its continuation thereafter, if any, are hereby declared lawful and valid, and shall be deemed to be, and to have always and at all times been, lawful and valid, notwithstanding that—

(a) the period for which it was directed by that order that such person be detained commenced from a date other than the date on which the detention order was made; or

(b) the detention order was a fresh detention order made after the revocation of a previous detention order against such person.

(2) No action, suit, prosecution or other legal proceeding whatsoever of any description or in any form shall be brought, instituted or maintained in any court on any ground after the commencement of this Act or, if brought or instituted before the commencement of this Act, shall continue to be maintained, for or on account of, or in respect of, anything lawfully done in relation to the detention order or the detention declared lawful and valid under subsection (1), save that the provisions of this subsection shall not apply to any such legal proceeding which had concluded and the final decision of the court in respect of which had been given before the commencement of this Act, or to any appeal in respect of such final decision.

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PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

CHINA

Communicated by the Government of China

NOTE BY THE SECRETARIAT

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DECISION ON THE PROHIBITION OF NARCOTIC DRUGS

(Adopted at the 17th Meeting of the Standing Committee of the Seventh National People's Congress on December 28, 1990)

With a view to severely punishing such criminal activities, as smuggling, selling, trafficking in and manufacturing narcotic drugs and illegal cultivation of their mother plants, and strictly prohibiting drug ingestion and drug injection so as to protect citizens' physical and mental health, maintain the public security order and to ensure the smooth progress of the socialist modernization, the following decisions are made:

1. For the purpose of this Decision, narcotic drugs mean opium, heroin, morphine, marijuana, cocaine and other habit-forming narcotics and psychotropic substances controlled by relevant regulations of the State Council.

2. Whoever smuggles, sells, traffics in or manufactures narcotic drugs, under any of the following circumstances, shall be sentenced to fixed-term imprisonment of fifteen years, life imprisonment or the death penalty and shall concurrently be sentenced to confiscation of property:

* Note by the Secretariat: The present document is a direct reproduction of the text communicated to the Secretariat.

(1) smuggling, selling, trafficking in or manufacturing opium of not less than 1,000 grams, heroin of not less than 50 grams or other narcotic drug of large quantities;

(2) being the chief culprit of a gang engaged in smuggling, selling, trafficking in or manufacturing narcotic drugs;

(3) smuggling, selling, trafficking in or manufacturing narcotic drugs shielded with armed force;

(4) resisting, with force, examination, detention or arrest and the circumstances being serious;

(5) participating in organized international drug trafficking.

Whoever smuggles, sells, traffics in or manufactures opium of not less than 200 grams but less than 1,000 grams, or heroin of not less than 10 grams but less than 50 grams or any other narcotic drug of relatively large quantities shall be sentenced to fixed-term imprisonment of not less than seven years and shall concurrently be sentenced to a fine.

Whoever smuggles, sells, traffics in or manufactures opium of less than 200 grams, or heroin of less than 10 grams or any other narcotic drug of small quantities, shall be sentenced to fixed-term imprisonment of less than seven years, criminal detention or public surveillance and shall concurrently be sentenced to a fine.

Whoever makes use of minors or instigates them to smuggle, sell, traffic in or manufacture narcotic drugs shall be given a heavier punishment.

With respect to those who repeatedly commit crimes of smuggling, selling, trafficking in or manufacturing narcotic drugs and go unpunished, the narcotic drugs thus involved shall be computed accumulatively.

3. No one shall be permitted to illegally possess any narcotic drugs. Whoever illegally possesses opium of not less than 1,000 grams, or heroin of not less than 50 grams, or any other narcotic drug of large quantities shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment and shall concurrently be sentenced to a fine; whoever illegally possesses opium of not less than 200 grams but less than 1,000 grams, or heroin of not less than 10 grams but less than 50 grams or any other narcotic drug of relatively large quantities shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance and may concurrently sentenced to a fine; whoever illegally possesses opium of less than 200 grams, or heroin of less than 10 grams or any other narcotic drug of small quantities shall be punished in accordance with the provisions of the first paragraph of Article 8.

4. Whoever shields criminals engaged in smuggling, selling, trafficking in or manufacturing narcotic drugs, whoever, for criminals, harbours, transfers or conceals narcotic drugs or property obtained from commission of such crimes, or whoever covers up or withholds the illegal nature and source of property gained from selling of narcotic drugs shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance and may concurrently be sentenced to a fine.

Conspirators to a crime specified in the preceding paragraph shall be deemed as accomplices in the crime of smuggling, selling, trafficking in or manufacturing narcotic drugs and punished as such.

5. Substances such as acetic oxide, ether, chloroform or any other substances often used in the manufacture of narcotics and psychotropic substances shall be strictly controlled in accordance with relevant regulations of the state. Illicit transportation or carrying of such substances into or out of the territory of China shall be strictly prohibited. Whoever illegally transports or carries any of the above-mentioned substances into or out of the territory of China shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall concurrently be sentenced to a fine; if large quantities are involved, the offender shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall concurrently be sentenced to a fine, and if relatively small quantities are involved, the offender shall be punished in accordance with relevant provisions of the Customs Law.

Whoever provides substances specified in the preceding paragraph for others, knowing that such persons manufacture narcotic drugs, shall be deemed as an accomplice in the crime of manufacturing narcotic drugs.

With respect to a unit that commits any illicit or criminal act specified in the two preceding paragraphs, the person(s) directly in charge and other person(s) held directly responsible shall be punished in accordance with the provisions of the two preceding paragraphs, and the unit shall also be punished with a fine or penalty.

6. Whoever illegally cultivates mother plants of narcotic drugs such as opium poppy and marijuana shall be forced to uproot them. Whoever commits any of the following acts shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance and shall concurrently be sentenced to a fine:

(1) cultivating opium poppy of not less than 500 plants but less than 3,000 plants or any other mother plant of narcotic drugs of relatively large quantities;

(2) cultivating any mother plant of narcotic drugs after being punished by the public security organ;

(3) resisting to uproot the mother plants of narcotic drugs.

Whoever illegally cultivates opium poppy of not less than 3,000 plants or any other mother plant of narcotic drugs of large quantities shall be sentenced to fixed-term imprisonment of not less than five years, and shall concurrently be sentenced to a fine or confiscation of property.

Whoever illegally cultivates opium poppy of less than 500 plants or any other mother plant of narcotic drugs of relatively small quantities shall be punished by the public security organ with detention of not more than 15 days and may also be imposed a penalty of not more than 3,000 yuan.

Persons illegally cultivating opium poppy or any other plant of narcotic drugs who voluntarily uproot them before harvest may be exempted form punishment.

7. Whoever lures, instigates or deceives others to ingest or inject drugs shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance and shall concurrently be sentenced to a fine.

Whoever forces others to ingest or inject drugs shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall concurrently be sentenced to a fine.

Whoever lures, instigates, deceives or forces a minor to ingest or inject drugs shall be given a heavier punishment.

8. Whoever ingests or injects drugs shall be punished by the public security organ with detention of not more than 15 days and may be imposed simply or concurrently a fine of not more than 2,000 yuan and the narcotic drugs and the instruments used in drug ingestion or drug injection shall concurrently be confiscated.

Whoever is addicted to drug ingestion or drug injection shall, apart from being punished in accordance with the provisions of the preceding paragraph, be forced to give up the addiction and go through medical treatment and ideological education.

Whoever ingests or injects drugs again after being forced to give up the addiction may be subjected to rehabilitation through labour and shall be forced to give up the addiction in the course of rehabilitation through labour.

9. Whoever shelters others in drug ingestion or drug injection and sells narcotic drugs therein shall be punished in accordance with the provisions of Article 2.

10. In the light of the needs of medical service, teaching or scientific research, the competent department of public health administration of the state may, in accordance with provisions of laws and administrative rules and regulations, designate specific places and pharmaceutical factories to cultivate or manufacture limited quantities of mother plants of narcotic drugs or narcotics and psychotropic substances. Units and personnel who are lawfully engaged in the production, transportation, administration or utilization of state-controlled narcotics and psychotropic substances shall strictly observe the regulations of the state concerning the administration of narcotics and psychotropic substances.

Personnel who are lawfully engaged in the production, transportation, administration and utilization of state-controlled narcotics and psychotropic substances in violation of relevant regulations of the state, provide such substances to persons ingesting or injecting drugs shall be sentenced to fixed-term imprisonment of not more than seven years or criminal detention and may concurrently be sentenced to a fine. Such personnel who provide state-controlled narcotics or psychotropic substances to criminals smuggling or trafficking in narcotic drugs or, for the purpose of profit, to persons ingesting or injecting drugs shall be punished in accordance with the provisions of Article 2.

With respect to a unit that commits any illicit or criminal act specified in the second paragraph of this Article, the person(s) directly in charge and other person(s) held directly responsible shall be punished in accordance with the provisions of the second paragraph of this Article, and the unit shall be punished with a fine.

11. Any state functionary who commits any crime specified in this Decision shall be given a heavier punishment.

Anyone who was punished for crimes of smuggling, selling, trafficking in, manufacturing or illegally possessing narcotic drugs commits a crime specified in this Decision again shall be given a heavier punishment.

12. Recovered narcotic drugs, illegal proceeds obtained from drug-related crimes and gains derived from such illegal proceeds and the funds and property for commission of crimes shall all be confiscated. The confiscated drugs and instruments for drug ingestion or drug injection shall be destroyed or disposed of otherwise in accordance with state regulations. All gains from fines or penalties or confiscated property shall all be turned over to the state treasury.

13. This Decision shall be applicable to the citizens of the People's Republic of China who commit the crimes of smuggling, selling, trafficking in or manufacturing drugs outside the territory of China. With respect to foreigners who have entered the territory of China after committing the crimes specified in the preceding paragraph outside the territory of China, the Chinese judicial organ shall have jurisdiction, and with the exception of those who shall be extradited in accordance with the international conventions or bilateral treaties to which China is a contracting or acceding party, this Decision shall be applicable.

14. Persons committing the crimes specified in this Decision who performs meritorious service by informing against and exposing other drug-related crimes shall be given a lighter or mitigated punishment or be exempted from punishment.

15. Citizens shall have the duty to inform against and expose the illicit or criminal acts specified in this Decision. The state shall give awards to persons who inform against or expose criminal activities such as smuggling, selling, trafficking in or manufacturing narcotic drugs and to persons who perform meritorious service in the prohibition of narcotic drugs.

16. This Decision shall come into force as of the date of promulgation.